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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,047	11/20/2003	Jing Li	P25,711-A USA	1275
23307	7590	05/10/2006	EXAMINER	
SYNNESTVEDT & LECHNER, LLP			ZIMMER, MARC S	
2600 ARAMARK TOWER			ART UNIT	
1101 MARKET STREET			PAPER NUMBER	
PHILADELPHIA, PA 191072950			1712	
DATE MAILED: 05/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,047

Applicant(s)

LI ET AL.

Examiner

Marc S. Zimmer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 4-11 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2,3,12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the article entitled “Blue Photoluminescent Zinc Coordination Polymers with Supertetranuclear Cores” authored by Tao et al., and published in *Chemical Communications* (2000), 20, 2043-44.

As the claim now reads, the repeating structural units are said to *comprise* a transition metal center, “consisting of one or more transition metal atoms.” Applicant contends that this description distinguishes Applicant's invention from the coordination polymers taught by the reference but the Examiner respectfully disagrees inasmuch as the structure of the repeating unit is open-ended given their utilization of the transitional phrase “comprising” preceding the description of the elements making up the repeating unit. The Examiner views the zinc oxo clusters as four transition metal centers joined by a central oxygen atom wherein the four zinc atoms each represent a “transition metal center”- the claims do not exclude the possibility that there may be present more than one transition metal center in each repeating unit. Further, each of the said zinc transition metal centers does, in fact, have coordinated thereto an exodate bridging ligand and a binding member of a bidentate binding site of a polyfunctional ligand.

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As for the premise that the zinc centers of the zinc oxo cluster do not form bonds with monodentate aromatic ligands, that are substitutionally labile in the presence of water, "the arguments of counsel cannot take the place of evidence in the record." *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965). Examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration include statements regarding unexpected results, commercial success, solution of a long-felt need, inoperability of the prior art, invention before the date of the reference, and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant.

There seems to be some suggestion on Applicant's part that, were the repeating unit to have contained a single zinc atom, water would be capable of replacing the pillar ligand thereby leading to the creation of discrete two dimensional sheets from the three dimensional framework but, because the zinc atoms are themselves part of an oxo cluster, this lability would not be observed. Applicant must furnish Affidavit evidence in support of their contentions.

The rejection over Seki et al. is hereby withdrawn in view of Applicant's stipulation that the exodentate bridging ligand must be aromatic.

Allowable Subject Matter

Claims 2-3, 12, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 2 is no longer

anticipated by Tao et al. because the repeating structural unit of the coordination polymer mentioned therein does not adhere to the description offered in claim 2.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc S. Zimmer whose telephone number is 571-272-1096. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 5, 2006

A handwritten signature in black ink, appearing to read "Marc S. Zimmer".

MARC S. ZIMMER
PRIMARY EXAMINER